

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

ANTHONY HITCHCOCK,)	
)	
Movant,)	CRIMINAL NO. 5:19-CR-39 (MTT)
)	
v.)	
)	CIVIL ACTION NO. 5:22-CV-20 (MTT)
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
)	

ORDER

United States Magistrate Judge Charles H. recommends dismissing Movant Anthony Hitchcock's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 for untimeliness. Doc. 67. Hitchcock has objected to the Recommendation. Doc. 68. Pursuant to 28 U.S.C. § 636(b)(1), the Court reviews the Recommendation de novo.

First, Hitchcock objects to the Recommendation on the grounds that he should get an additional 90 days before his conviction is deemed final based on the time allowed to file for writ of certiorari to the Supreme Court. Doc. 68 at 1. However, Hitchcock does not get the benefit of the additional 90 days because he did not file a direct appeal within fourteen days following his conviction. Doc. 67 at 1; *Ramirez v. United States*, 146 F. App'x 325, 326 (11th Cir. 2005). Second, Hitchcock objects to the Recommendation because the Magistrate Judge did not view the indictment as a jurisdictional challenge, which he argues is not subject to the time bar of § 2255. Doc. 68 at 4. However, even jurisdictional challenges are subject to the one-year limitation

period under § 2255. *Williams v. United States*, 383 F. App'x 927, 929-930 (11th Cir. 2010).¹

Therefore, the Court accepts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation (Doc. 67) is **ADOPTED** and made the order of this Court. Accordingly, the Respondent's motion to dismiss (Doc. 64) is **GRANTED**, Hitchcock's motion to vacate, set aside or correct his sentence (Docs. 61; 63) is **DENIED**, and a certificate of appealability is **DENIED**.

SO ORDERED, this 30th day of September, 2022.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT

¹ Although *Ramirez* and *Williams* are unpublished decisions and thus non-binding, the facts of these cases are very similar to those before the Court and the reasoning is persuasive.